

EXHIBIT 28

Part 4. Examining Process

Chapter 46. LB&I Guide for Quality Examinations

Section 3. Planning the Examination (Cont. 2)

4.46.3 Planning the Examination (Cont. 2)

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4.46.3.8

Resources Available to the Team Manager

4.46.3.8.10

Specialists and Specialists' Managers

4.46.3.8.10.7 (03-01-2006)

Employment Tax Specialist

1. Mandatory Referrals - IRM 4.23, Employment Tax Handbook, describes the mandatory referral criteria for employment tax assistance on examinations.
2. Overall Employment Tax Program - IRM 4.23 describes the overall employment tax program, objectives, organization and responsibilities. IRM 4.23 requires the team manager to employ a specialist familiar with employment tax problems.
3. Early Involvement of the Employment Tax Specialist – LB&I teams should involve employment tax specialists (ETS) early in the CIC/IC examination to identify employment tax issues and to achieve uniform compliance on an industry-wide and issue basis.
4. ETS Involvement in Examination Planning - The ETS is able to assist in the planning process for the LB&I examination to identify employment tax issues and is familiar with CIC/IC protocols and procedures. The ETS is responsible for preparing the employment tax examination plan and associated risk analysis.
5. Control of Employment Tax Returns - The employment tax team manager controls the employment tax returns, while the team manager exercises primary case control. The ETS works very closely with the team manager, team coordinator and other team members in all aspects of the employment tax examination.
6. Currency of Examinations - IRM 4.46.3.5.4, Excise and Employment Tax, discusses options available to the examination team and the taxpayer when the employment tax examination is more current than the income tax examination.

4.46.3.8.10.8 (03-01-2006)

Other Specialists

1. Assigned Specialists - The various specialists previously discussed in this section are those specifically assigned or available to assist in the regular income tax examination.
2. Excise Tax Specialist - The great majority of cases in the LB&I program involve taxpayers liable for one or more different types of excise taxes. The team manager, during the initial review of the taxpayer, should determine if a taxpayer has a potential excise tax liability, and if so, a request for excise specialist assistance should be made. The Excise Tax Handbook, IRM 4.24, describes the Excise Tax Program and IRM 4.46.3.5.4, Excise and Employment Tax, requires centralized control of this area by the team manager. The initial review conducted by the team manager may fail to reveal any excise tax liability or credits claimed. The team manager, in these cases, should consult with the excise tax manager to identify possible areas of noncompliance.
3. TEGE Examinations - Employee Plans (EP) specialists are not LB&I employees. However, it is the responsibility of the team manager to refer cases with EP issues to TEGE. The EP examination must be coordinated with the income tax examination in any case selected for examination by EP specialists.
4. Pre-Filing and Technical Guidance Assistance - Technical advisors (TAs) are positions that have been established and are part of the overall network of the Pre-Filing and Technical Guidance (PFTG) program. The function of the TA is to initiate and monitor nationwide coordination of issues that cross industry lines and to provide assistance on these issues to examination teams. Information regarding the TA program can be found at IRM 4.40, Technical Advisor Program.
5. Tax Computation Specialist (TCS) - A team member who specializes in determining the tax liability on LB&I cases. A TCS completes tax computations for 1120s utilizing BNA and 1120Ss, 1065s and 1040s utilizing RGS. In addition to preparing tax computations, the TCS also prepares Joint Committee spreadsheets and completes Part 1 of Form 2285, Restricted Interest.

4.46.3.8.11 (12-29-2009)

Outside Experts - Overview

1. LB&I's Outside Expert Program (OEP) is managed at the Field examination level by LB&I's Field Specialists' Engineers and provides access to outside expert services. The services of the outside experts are justified in special situations such as the following:
 - Strategically managed issues,
 - Cases involving high impact precedent setting issues,
 - High dollar issues,
 - High impact compliance issues, and

Requests for outside expert services are encouraged regardless of any currently reported budget constraints. LB&I Field Specialists Headquarters shall coordinate with Management and Finance and upper levels of management to seek funding for all outside expert requests that are "pre-approved" for funding.

4.46.3.8.11.1 (12-29-2009) Management and Oversight

1. Oversight for the LB&I OEP is provided by a Field Specialists Director of Field Operations (FSp DFO) and LB&I's OEP Budget Committee (Committee). The FSp DFO has controlling authority over LB&I's OEP. National management and coordination of the LB&I OEP is delegated to a Management and Program Analyst (OEP Program Analyst) working out of the LB&I Field Specialists Headquarters Office [See the Engineer website under "Information and Resources/Outside Expert Program (OEP)" for additional information].

4.46.3.8.11.2 (12-29-2009) Deciding Whether to Request Outside Expert Assistance

1. Some key factors that should be considered when requesting outside expert assistance include the following:
 - Availability of in-house Specialists,
 - Strategic and Industry initiatives impacted,
 - Compliance impact,
 - Tax revenue impact,
 - Significant emerging issues, and
 - Counsel support for the legal foundation of the subject issue.

Requesters should refer to Exhibit 4.46.3-6, Process Checklist - \$75,000 or more LB&I OEP Funding Request and Exhibit 4.46.3-7, Process Checklist - Under \$75,000 LB&I OEP Funding Request and the Engineer website for guidance.

4.46.3.8.11.3 (12-29-2009) Early Identification of Need for Outside Expert Assistance

1. Industry Team Managers are expected to identify potential outside expert needs and submit requests as soon as possible. Immediately after a potential funding need is identified, the Industry Team Manager shall coordinate with the Field Specialists Team Manager(s) who should have primary responsibility for providing in-house Specialist assistance on the subject issue. The Industry Team Manager shall coordinate with their Industry representative on the Committee no later than when the request for outside expert funding is submitted [See the Engineer website under "Information and Resources/Outside Expert Program (OEP)" for a listing of Industry representatives on the Committee]. The Field Specialists Team Manager(s) who have primary responsibility for providing in-house Specialist assistance on the issue shall coordinate with their Territory Manager to obtain preliminary concurrence that in-house Specialists can not provide the required expert services. The Committee shall review requests for outside expert funding on a quarterly basis. Committee meeting dates shall be posted on the Engineer website and communicated by e-mail. Proper planning shall be utilized to limit submissions of funding requests on short notice. The FSp DFO or the Committee may require Industry Executive level concurrence for the submission of requests deemed by the examination team as being too urgent to wait for a scheduled meeting of the Committee.

4.46.3.8.11.4 (12-29-2009) Outside Expert Assistance on Strategically Managed Issues

1. The use of outside expert assistance is highly encouraged on strategically managed issues and projects. In addition to providing expert reports on case-specific examination issues, outside experts can provide Industry insight and assist with the development of strategies, audit technique guides, and pro forma information document requests (IDRs). Requests for outside expert assistance on strategically managed projects or initiatives shall be submitted through the supporting Field Specialists Engineers per IRM 4.46.3.8.11.7, Requesting Outside Expert Assistance. The FSp DFO or the Committee may ask Issue Owner Executives (IOEs) to provide assistance with prioritizing requests for outside expert assistance on projects that they own that involve multiple taxpayer examinations (See IRM 4.51.5, Industry Focus and Control of LB&I Compliance Issues and the Pre-filing and Technical Guidance website under "Pre-filing and Technical Services/Industry Issue Focus" for additional guidance).

4.46.3.8.11.5 (12-29-2009) Utilization of In-House Specialists – Required

1. Industry Team Managers shall be required to seek Field Specialists concurrence that appropriate, qualified in-house Specialists are not available to work the subject issues prior to recommending procurement of an outside expert. This is required to maximize the benefits from the OEP within budgetary constraints. The concurrence of the Field Specialists Territory Manager(s) who should have primary responsibility for providing Field Specialists support on the issue shall be required regardless of cost as part of the funding approval process [See IRM 4.46.3.8.11.3, Early Identification of Need for Outside Expert Assistance above]. Requests for actuarial services must be sent to Financial Services prior to formal submission for funding to hire outside actuarial experts (See Financial Services' website under "Actuaries" for additional guidance).

4.46.3.8.11.6 (12-29-2009) Area Counsel and Technical Advisor Involvement

1. Area Counsel is available to assist in determining whether an outside expert is needed and can provide assistance with identifying an appropriate expert and with related "due diligence". Area Counsel and Technical Advisor involvement are required when the estimated cost of an outside expert is \$75,000 or more. The Industry Team Manager shall be responsible for obtaining a written recommendation from Area Counsel. Counsel's recommendations should include the following:
 - Opinion and explanation as to whether Counsel supports the legal foundation for the subject issue,
 - Opinion and explanation as to whether Counsel perceives a significant potential for litigation,
 - Indication as to whether the subject issue is docketed for trial (with any taxpayer), and
 - Litigation history for the subject issue.

Counsel should clearly indicate and explain their concurrence with the need to hire the outside expert at the Examination level. A similar written recommendation from the Technical Advisor is required.

4.46.3.8.11.7 (12-29-2009) Requesting Outside Expert Assistance

1. Current guidance and worksheets posted to the Engineer website under "Information and Resources/Outside Expert Program (OEP)" should be used when requesting funding for outside expert assistance on LB&I examinations.
2. It is required that all requests and associated documentation for funding for outside expert services on LB&I examinations shall be submitted by secure e-mail. Failure to use secure e-mail for submitting requests for funding shall result in rejection of the requests. Requests shall include the estimated cost for all phases of anticipated outside expert services excluding trial preparation and assistance (i.e., estimated total cost of assistance at the Examination level and for Appeals assistance).

3. Requests for funding where the total estimated contract cost for Examination or Appeals Assistance is less than \$75,000 can be approved by Engineer Territory Managers without Committee review and approval. Engineer Territory Managers should approve or reject requests based on the merits of the requests regardless of any reported budget constraints.
4. Requests where the total estimated contract cost is \$75,000 or more shall require review and approval by the Committee.
5. Contract phases shall be clearly identified in the contract statement-of-work and shall be clearly identified as corresponding separate "Line Items" in the Service's Request Tracking System (RTS). Outside expert requisitions that do not clearly specify separate phases and corresponding RTS Line Items shall be rejected.
6. All requests for LB&I outside expert funds, regardless of cost, shall require preparation of an "LB&I Outside Expert Pre-Approval Worksheet" which can be found posted on the Engineer website under "Information and Resources/Outside Expert Program (OEP)" (Also see Exhibit 4.46.3.8, Instructions - Requests For LB&I Outside Expert Funding).
7. All requests whether case-specific or related to strategically managed projects, regardless of cost, shall be concurrently submitted through secure e-mail by the Engineer Team Manager responsible for providing Engineer assistance to the examination to his/her Engineer Territory Manager and to the Industry Territory Manager. Copies shall be sent to the Industry Team Manager, Field Specialists Team Manager(s) and Field Specialists Territory Manager(s) who should have primary responsibility for providing Field Specialist support on the issue. A copy for information purposes shall be sent by the Engineer Team Manager to the Industry representative on the Committee.
8. The Engineer Territory Manager shall not approve the request without documented concurrence of the Industry Team Manager, Industry Territory Manager and Field Specialists Team Manager(s) and Field Specialists Territory Manager(s) who should have primary responsibility for providing Field Specialists support on the issue. The Engineer Territory Manager may assume the approval of the Industry Territory Manager if not otherwise notified within five working days after the Engineer Team Manager forwards the funding request package to the Engineer and Industry Territory Managers.
9. Industry Team Managers/Industry Territory Managers shall be responsible for obtaining documentation of Industry Executive level concurrence on high cost outside expert projects. Industry Director of Field Operations concurrence shall be required where the total estimated cost is \$500,000 or more and Industry Director concurrence shall be required if the total estimated cost is \$1 million or more.
10. All required documentation for requests for funding that are submitted to the Committee shall be routed through the Engineer Territory Manager who is responsible for providing Engineer support to the examination. Documentation of concurrence at all required levels shall be provided by routing the funding request packages through secure e-mail rather than providing a printed copy of the "LB&I Outside Expert Pre-Approval Worksheet" with actual signatures.
11. Requests for funding that require Committee review shall be submitted to the OEP Program Analyst no later than thirty (30) calendar days prior to a scheduled meeting of the Committee.
12. The FSp DFO or the Committee may require Industry Executive level concurrence for the submission of requests deemed by the examination team as being too urgent to wait for a scheduled meeting of the Committee [See IRM 4.46.3.8.11.3, Early Identification of Need for Outside Expert Assistance above].
13. Requesters also should refer to Exhibit 4.46.3-6, Process Checksheet – \$75,000 or more LB&I OEP Funding Request and Exhibit 4.46.3-7, Process Checksheet – Under \$75,000 LB&I OEP Funding Request for guidance. Current versions of these "Process Checksheets" and current versions of other worksheets and additional current guidance on requirements and procedures for processing requests for outside expert funding are posted on the Engineer Program website under "Information and Resources/Outside Expert Program (OEP)" .

4.46.3.8.11.8 (12-29-2009)

Elements of a Complete Funding Pre-approval Request Package

1. A complete, fully documented funding request package shall, at a minimum, include the following items (see the Engineer website for details):

- Completed "LB&I Outside Expert Pre-Approval Worksheet" ,
- Justification for not using in-house Specialists,
- Market survey documentation,
- Independent government cost estimate, and
- Justification for Other Than Full and Open Competition (JOFOC) if requisition is to be non-competitive.

The Industry Team Manager shall be responsible for ensuring COTR and Specialist Point-of-Contact (Specialist POC) involvement in all aspects of preparing the funding request package [See IRM 4.46.3.8.11.15, Specialist "Point-of-Contact" (Specialist POC) Required]. The Engineer Team Manager responsible for providing Engineer assistance to the examination shall be responsible for reviewing the funding request package for quality and completeness prior to submission.

4.46.3.8.11.9 (12-29-2009)

Requests for Additional Funding

1. Requests for additional funding on existing contracts shall, at a minimum, include the following information:

- Summary and status of outside expert services already received,
- Explanation and justification why additional funding is required,
- Independent government cost estimate and related documentation associated with the request for additional funding,
- Revised copy of the statement-of-work, and,
- Complete, fully documented funding request package if not previously provided where the total cost is \$75,000 or more [See IRM 4.46.3.8.11.8 - Elements of a Complete Funding Pre-approval Request Package].

All requests for funding where the total cost for the contract is \$75,000 or more shall be submitted to the Committee for review, even if previously approved at less than \$75,000 by an Engineer Territory Manager. Engineer Territory Managers have the authority to approve additional funding requests where the final total cost for the contract is under \$75,000. A template posted on the Engineer website under "Information and Resources/Outside Expert Program (OEP)" shall be used for all requests for additional funding.

4.46.3.8.11.10 (12-29-2009)

Engineer Team Manager's Timely Review of Funding Request Packages and Requisition Packages

1. The Engineer Team Manager who is responsible for providing Engineer assistance to the examination team shall be required to timely review outside expert funding request packages and requisition packages for completeness and accuracy of documentation prior to submission. The OEP Program Analyst shall return incomplete funding request packages to the responsible Engineer Team Manager with a copy to the Industry's representative on the Committee. Fully documented requisition packages shall be presented to AWSS Procurement within thirty days of pre-approval of funding notification to avoid recall of the pre-approval [See IRM 4.46.3.8.11.12, Timely Processing of Funded Requisitions Required]. The Industry Team Manager and Engineer Team Manager shall be responsible for having notification sent to the OEP Program Analyst when the requisition package is sent to Procurement. The Industry's representative on the Committee shall be notified by the OEP Program Analyst if adequately documented requisition packages are not timely provided to Procurement.

1. Guidance provided in an example of a fully documented requisition package as posted on the Engineer website under "Information and Resources/Outside Expert Program (OEP)" shall be followed. The elements of a fully documented requisition package include the following information and documents:

- General Information,
- Independent Government Cost Estimate,
- Performance Based Work Statement (PWS) including,
 - Performance Requirements Summary Table, and
 - Quality Assurance Surveillance Plan (QASP).
- Justification for Other Than Full and Open Competition (JOFOC) [Required if "non-competitive" requisition],
- Market Research,
- Non-Disclosure Statement signed by recommended outside expert(s),
- LB&I Outside Expert Pre-Approval Worksheet [Required only if cost is \$100,000 or more],
- Expert's Resume,
- Other Correspondence from Expert,
- Acquisition Plan [Required only if cost is \$100,000 or more],
- Security Requirements – Background Investigations, Disclosure and Privacy Act. [Required if contractor will have access to SBU information], and
- Documentation of COTR Certification.

4.46.3.8.11.12 (12-29-2009)

Timely Processing of Funded Requisitions Required

1. Pre-approval of funding shall be subject to recall on requisitions where complete, fully documented requisitions packages are not forwarded to AWSS Procurement within thirty (30) calendar days after pre-approval of funding notification. The Industry Team Manager and Engineer Team Manager shall be responsible for insuring the timely submission of complete, fully documented outside expert requisition packages. The Industry Team Manager and Engineer Team Manager shall be responsible for having notification sent to the OEP Program Analyst when the requisition package is submitted to AWSS Procurement. The Industry's representative on the Committee shall be notified by the OEP Program Analyst if adequately documented requisition packages are not timely provided to Procurement.

4.46.3.8.11.13 (12-29-2009)

Monitoring and Controlling and Status Reporting of Outside Expert Contracts

1. Monitoring and control of outside expert contracts shall be the joint responsibility of the LB&I Field Specialists and the LB&I Industries and shall include all team members assigned to the subject issue. LB&I Industry Team Managers shall bear ultimate responsibility for effectively managing and controlling outside expert services on their cases and shall be expected to fully engage all examination team members who have direct responsibility for issues where outside experts are being utilized. Outside expert services shall be set up in "phases" to facilitate controls and monitoring and risk management. Contract phases shall be clearly identified in the contract statement-of-work and shall be clearly identified as corresponding separate line items in RTS. Outside expert requisitions that do not clearly specify separate phases and corresponding RTS line items shall be rejected. Industry Team Managers shall be responsible for preparing and submitting status reports on outside expert contracts on a quarterly basis until the examination is closed. The status reports shall be submitted to the OEP Program Analyst with copies to the Industry Territory Manager, the Industry representative on the Committee, the Engineer Team Manager and the Engineer Territory Manager. The status reports are due no later than fifteen days after the end of each calendar quarter. Industry Team Managers also shall be responsible for submitting a closing report on the contract when the examination is closed (See the Engineer website for status and closing report templates). The contract closing reports shall be submitted to the OEP Program Analyst with copies to the Industry Territory Manager, the Industry representative on the Committee, the Engineer Team Manager and the Engineer Territory Manager. LB&I Field Specialists Headquarters shall share information from the quarterly status reports and contract closing reports with the Director, Field Operations who is responsible for the subject examination.

4.46.3.8.11.14 (12-29-2009)

Contracting Officer's Technical Representative (COTR) Required

1. A COTR shall be assigned to all LB&I outside expert requisitions. The COTR is responsible for all liaisons with the outside expert. It is the responsibility of all examination team members to coordinate with the COTR prior to any communications with the outside expert. Adhering to this requirement will encourage team member and contractor understanding of the formal requirements and limitations of the contract and minimize the risk of "unauthorized procurements". The COTR assigned to the case will be available to guide team management, the Specialist Point-of-Contact [See IRM 4.46.3.8.11.15, Specialist "Point-of-Contact" (Specialist POC) Required] and other members of the examination team who have direct examination responsibility for the outside expert issue. The COTR also will perform all the other official COTR functions such as RTS entry, accepting invoices, etc. The COTR may also be the Specialist POC on the case and will then be responsible for the duties of both the COTR and the Specialist POC. Additional information about COTR responsibilities and requirements can be found on the Engineer website under "Information and Resources/Outside Expert Program (OEP)" and can be found on the "Treasury Acquisition Institute" (TAI) website (See AWSS Procurement's website for a link to the TAI website).

4.46.3.8.11.15 (12-29-2009)

Specialist "Point-of-Contact" (Specialist POC) Required

1. Generally, every outside expert case shall have a Field Specialist assigned as the Specialist POC. (NOTE: A non-FSp Specialist may serve as technical POC if no qualified FSp Specialists are available.) The purpose of the Specialist POC is to ensure and enhance the quality of the outside expert's work product. An additional benefit of the Specialist POC is to enhance the Specialist's understanding of the issue by working more closely with the outside expert. The Specialist POC shall be the in-house Specialist who should have primary responsibility for providing Specialist examination support on the subject issue. The Specialist POC primarily will be responsible for providing oversight to the examination team on all aspects of the OEP issue. This includes, but is not limited to providing assistance with the following:

- Initial identification of the issue,
- Identification of the scope of work,
- Identification of qualified experts,
- Preparation of the statement of work,
- Providing oversight of the outside expert's in-process work,
- Participation in meetings with the outside expert and taxpayer, and
- Reviewing the outside expert's draft and final report.

It is expected that all examination team members with direct responsibility for the subject OEP issue shall be fully engaged with the outside expert process from the initial planning through close out of the contract.

1. COTR and Specialist POC time related to the procurement of and management of a case-specific outside expert contract is case related Direct Examination Time (DET). Time requirements associated with the processing and management of an outside expert requisition will vary from case to case and shall be documented in the COTR's and Specialist POC's case activity record, Form 9984, Examining Officer's Activity Record.

4.46.3.8.11.17 (12-29-2009)

Market Surveys and Identification of New Experts Required

1. At least one new, not previously used potentially qualified outside expert shall be contacted during the market survey process. Documentation of this contact is required (See the Engineer website). Due diligence is required during the market research identification of potential outside experts. Examination teams shall seek the assistance of Area Counsel when performing market research to identify new outside experts. At a minimum, prior to Procurement's sending out formal solicitations for outside expert services, the examination team shall perform the following actions related to all solicited outside experts:
 - Check and verify all items on the expert's resume, including references,
 - Search the Internet for all material on the expert,
 - Research all cases in which the expert testified to determine if courts looked favorably on the expert,
 - Interview the expert – Be sure to inquire about potential conflicts of interest and if there is anything in the expert's past that could be a problem,
 - Check with the Office of Chief Counsel Librarians to see if they can find anything in print that the expert wrote or where others commented on the expert's views. Area Counsel can assist with this (See a copy of Chief Counsel's publication "Expert Witness Sources 2007" which can be found posted on Chief Counsel's website at <http://counsel.web.irs.gov> under "Counsel Library Catalog/Publications & Guides/Expert Witness Guide," and
 - Review any "Past Performance" reports maintained by AWSS Procurement on the expert.

4.46.3.8.11.18 (12-29-2009)

Contractor Security Requirements Including Background Investigations

1. Contractor and contractor employees who are provided with access to tax returns or tax return information or any other sensitive information and/or use or operate Information Technology (IT) systems containing Internal Revenue Service data shall comply with all executive, legislative and Department of Treasury and IRS security policies and procedures. IRM Part 10 – Security, Privacy and Assurance provides current guidance on safeguarding sensitive information and provides guidance on personnel security requirements. IRM 10.23.2 – Personnel Security, Contractor Investigations provides background investigation requirements for contractors who are US citizens and who are not US citizens. IRM 1.10.1 – The IRS Correspondence Manual offers additional guidance on the protocol for corresponding with the Department of Treasury if a waiver from Treasury is required to allow the hiring of a non-citizen contractor. All correspondence with Treasury must originate at the Industry Director level of the LB&I Industry that owns the subject examination and must be routed through appropriate channels to Treasury through the LB&I Commissioner's office.

4.46.3.8.11.19 (12-29-2009)

Post-award Conference Required

1. The Industry Team Manager and Engineer Team Manager shall be responsible for ensuring that the COTR conducts a "post award conference" with the examination team and outside expert to explain and clarify the terms and limits of the contract and to explain roles and responsibilities and associated limits. The post award conference shall be held prior to authorizing any outside expert services under the contract. Teleconferences may be used to accomplish the "Post-award Conference" requirement.

4.46.3.8.12 (03-01-2006)

Assistance and Support

1. Overview - Resources are available from outside the primary group to complete LB&I examinations of subsidiaries, branches, or divisions in remote locations or other industries. Team managers should secure assistance or support resources for each case that warrants examination work in locations other than the primary group location or industry. Agents and specialists providing assistance or support work will be full participating team members.
2. Assistance - An assistance examination is where examiners from the same industry (usually in a different location) are included in the examination of a division or subsidiary of the primary case.
3. Support - A support examination is where examiners from a different industry (usually in a different location) are included in the examination of a division or subsidiary of the primary case.

4.46.3.8.12.1 (03-01-2006)

Team Resources Beyond Primary Group

1. Use of Resources Outside the Primary Group - The use of resources outside the group where the case is assigned is an important and unique feature of LB&I. This concept allows the team manager to utilize special talents on a Service-wide basis to meet the needs of the examination. A team member's knowledge, including the knowledge of assisting or supporting team members outside of the primary group, of local conditions or an industry, brought together with the team manager's knowledge of the overall case, provide the most effective examination team.
2. Assistance Team Members - Assistance team members are revenue agents or specialists who are assigned to a case in the same industry as the primary case, but are located in an examination group that does not have primary responsibility for control of the case. Team members providing assistance can be located in the same or a distant geographic area.
3. Support Team Members - Support team members are revenue agents or specialists who cross industry lines to provide expertise or staffing needs to a case assigned to another industry. Support team members may be located in the same or a distant geographic area.
4. Operations Located Outside the Organization or Geographic Area of the Primary Case - Industry and coordinated industry cases frequently have subsidiaries, divisions, branches and/or plants located in geographical areas other than the primary case location. Examination of various segments of a case can be accomplished from a single location or multiple locations.
5. All Segments of a Case Should be Reviewed and Examined as Needed - The team manager must determine whether examination work would be most effective if performed in the remote locale. Team managers should avoid traditional practices which adversely affect the examination, such as:
 - A. Shipping records from operating business units to the headquarters location, thereby eliminating the opportunity to observe local operations or to make inquiries of taxpayer's on-site personnel; and
 - B. Routinely accepting the taxpayer's statements that there are no local personnel available to service the information needs of the assistance or support agent(s).
6. Consider Prior Audit Use of Assistance or Support - The primary team manager will consider comments from prior post-examination critiques in determining assistance or support needs for a case.
7. Primary Team Manager Involvement and Effectiveness of the Examination - The effectiveness of an examination bears a direct relationship to the degree of involvement by the team manager. Primary team manager involvement with assistance or support team members at the examination site is imperative to the conduct of a quality examination. His or her involvement facilitates better communication between assistance and support team members, the taxpayer, and the primary team. Team manager involvement and

8. Team Manager Visits to All Case Examination Sites - Team manager visits to all case sites are encouraged as a means to:

- A. Obtain the assistance or support group's continued commitment to a quality examination at the agent level and management level;
- B. Provide first hand knowledge about examination progress which will serve as the basis for making timely modifications to the examination plan;
- C. Resolve major problems that develop during the examination; and
- D. Demonstrate the importance of the assistance or support personnel as a viable part of the examination team.

4.46.3.8.12.2 (03-01-2006)

Use of Assistance or Support vs. Primary Group Personnel

1. Methods for Assistance or Support Examinations - The team manager must determine the most efficient method of examining entities located outside of the jurisdiction of the primary group. Factors which favor the use of assistance or support personnel are:
 - A. Substantial staff days are planned to examine the entity.
 - B. The assistance or support examination requires use of personnel with local knowledge,
 - C. Records are maintained outside the primary examination location.
 - D. In-depth probes are planned.
 - E. Resolve major problems that develop during the examination, and
 - F. Voluminous records are maintained at the assistance or support site.
2. Site Facility Visits - The team manager may find it necessary to visit the facility in question in order to determine whether an assistance or support role is warranted. The team manager may, in lieu of a personal visit:
 - A. Arrange to have a team manager in the local area visit the facility to determine what is available for on-site examination; or
 - B. Schedule an exploratory assistance or support role for the current or subsequent examination.
3. Other Options to Assistance or Support Examinations - Conducting the examination from the location of the primary group is another option available to a team manager. (See IRM 4.46.3.8.12.8, Primary Team Traveling to Other Geographic Areas for additional guidance.)

4.46.3.8.12.3 (03-01-2006)

Requesting Assistance or Support Staffing

1. Prepare Form 4485, LB&I Request for Assistance or Support Resources, 120 Days In Advance - Form 4485 will be prepared for each case when needs outside the primary group have been identified. Form 4485 should be prepared and routed at least 120 days prior to the start of the examination.
2. Forwarding Form 4485 Related to Needs within the Assigned Industry- Form 4485 identifying needs within an industry will be forwarded through normal routing channels to the territory manager most likely to provide needed resources.
3. Forwarding Form 4485 Related to Needs Outside of the Assigned Industry - Form 4485 identifying needs outside the assigned industry will be forwarded through normal routing channels to the Director of Field Operations of the other industry.
4. Only One Form 4485 May Be Required - Only one Form 4485 per case should be prepared for each geographic area. Multiple entities belonging to the same case unit and requirements for different skills can be set out in one request.
5. Unusual Requirements or Skills Should Be Identified in the Form 4485 - Form 4485 should contain information about any unusual requirement or special skills needed.
6. Response to Form 4485 Required In 10 Calendar Days - Groups receiving Form 4485 will respond to the originator within 10 calendar days of receipt with an information copy to the originating and receiving territory managers.

4.46.3.8.12.4 (03-01-2006)

Assignment of Resources

1. Supporting Territory Manager - The assisting or supporting territory manager should assign the Form 4485 to a team manager with resources in the identified geographic area.
2. Assistance or Supporting Team Manager Will Contact Primary Team Manager - The primary team manager will be contacted by the assistance or support team manager to properly plan the examination and provide the type of personnel needed.
3. Team Managers Agree On Scope of Requested Assistance - Team managers will share information and reach agreements on:
 - A. When and what to expect in the way of a plan from the primary team manager;
 - B. What planning will be expected of each team member;
 - C. Location of work;
 - D. Flexibility of starting or completion dates;
 - E. Advisors or special skills needed;
 - F. Planned visits by primary team manager.
4. Coordination with Assistance or Support Territory Manager - The assistance or support team manager should advise his or her territory manager of the resources needed for the examination and the leadership to be expected from each team manager based on the shared information and agreements reached.
5. Direct Communications between Assistance or Support Team Member and Primary Team Manager - The assistance or support team manager will arrange for direct communications between the primary team manager and designated team member once the team member is assigned.
6. Modification to Requested Assistance or Support - Circumstances may require modifications to previously approved resources. The primary team manager should immediately modify existing commitments by memorandum or an amended Form 4485, LB&I Request for Assistance or Support Resources, when this occurs. Assistance or support groups will be notified of changes in start or end dates, staff needs or time requested, as soon as those changes are decided.
7. Requests for Modifications from Assistance or Support Group - Changes in requested resources may result from inquiries or suggestions from the assistance or support group. These may be changes to start dates, the number and type of examiners needed, examination time, examination plan preparation, follow-up procedures, or other pertinent matters.

4.46.3.8.12.5 (03-01-2006)

Use of Assistant Team Manager

1. Assistant Team Manager - An assistant team manager may be designated for significant examinations that would benefit from local, on-site supervision. Some conditions which may warrant an assistant team manager are:
 - A. A CIC case that consists of several very large entities in different locations;
 - B. More than one team is required to complete the examination;
 - C. Support group or assistance work involves a number of team members whose efforts should be closely directed and coordinated; or
 - D. Support or assistance staff days are 200 days or more.
2. Assistant Team Manager Functions - Some of the principal ways in which assistant team managers should function are:
 - A. Assisting in the selection and orientation of team members under their supervision;
 - B. Assisting in planning that part of the examination they are to direct;
 - C. Making on-site visits;
 - D. Making decisions regarding the examination plan within the scope of their delegated authority; and
 - E. Evaluating team members under their supervision.
3. Written agreement - On-site supervision involves a delegation of team manager authority. It is desirable to set out in writing what is expected of the assistant team manager. Team managers should keep in mind that although they are delegating authority, they retain overall responsibility for examination results.

4.46.3.8.12.6 (03-01-2006)

Communication

1. Form 4485 Does Not Communicate Complete Details - Form 4485, LB&I Request for Assistance or Support Resources, identifies resource needs and facilitates assignment of resources. Information provided initially is not expected to contain complete details as to what is needed of each team member or specialist. Assignment of the request opens a channel of communication between the assistance or support team and the primary team. Communication will be essential to perfect the role of distant team members.
2. Need for Additional Communication - Efficiency of teamwork depends upon communication, cooperation and commitment between the primary team manager and assistance or support group personnel. The rapport needed can be firmly established by the primary team manager if:
 - A. Resource requests are timely and realistic.
 - B. Assignments are clearly defined.
 - C. Special instructions are complete and understandable.
 - D. Personal involvement is constructive.
3. Support or Assistance Communications with the Taxpayer - It is critical for the support or assistance team member to include the primary team manager or primary team coordinator in discussions with the taxpayer.

4.46.3.8.12.7 (03-01-2006)

Follow Up on Support

1. Open Communication - Communication channels must remain open at all times between the assistance or support team and the primary team.
2. Use of Periodic Calls between Primary Team and Assistance or Support Team - Periodic calls to the distant team to discuss progress of the examination plan and any changes in start dates will permit the assistance or support team to plan its work more effectively.
3. Visits to Assistance or Support Teams - Visits to assistance or support teams during the planning phase may be warranted. The complexity and overall importance of the assignment may determine the need for visits prior to the opening conference. Refer to IRM 4.46.3.8.12.8, Primary Team Traveling to Other Geographic Areas, below, when planning these visits.
4. Changes In Time and Planned Starting Dates Must Be Communicated to Assistance or Support Team - The primary team manager should be constantly aware of the need to keep the distant team currently advised regarding changes in time requested and planned starting dates.
5. Requests for Additional Assistance or Support Time - Requests for additional time will follow the same procedures and approval as required for the original request. This includes submission of a new Form 4485, LB&I Request for Assistance or Support Resources.

4.46.3.8.12.8 (03-01-2006)

Primary Team Traveling to Other Geographic Areas

1. Primary Team Visits to Assistance or Support Audit Site - The primary team manager, in certain instances, may find it more advantageous to send primary team members to other areas to make on-site examinations or to assist a distant agent. Factors to be considered in this respect include the following conditions:
 - A. Minimal examination by the primary team would be required where data and records are fragmented between the primary audit location and a distant taxpayer location.
 - B. Unusual accounting systems closely integrated with the parent system would require a team approach in conducting the on-site examination. One of the primary team members would work with the assistance or support agent in the conduct of the out-of-area examination.
 - C. The primary team has completed a significant portion of the examination on a particular subdivision at the primary audit site and then needs to follow up on specific areas in distant locations.

4.46.3.8.13 (03-01-2006)

Collateral Activity

1. Collateral Activities Are Limited in Scope - Collateral activity is the performance of work of short duration, work that does not require the examination of books and records, and work that calls for little independent judgment or conclusions. For example, a collateral activity would be justified where:
 - A. An interview is required to get specific information for the team manager.

- B. A document is to be obtained.
 - C. A transcript of an account or a listing of invoices is needed.
 - D. A summons needs to be served.
2. Requests for Collateral Assistance - Requests for collateral assistance should be routed through appropriate Directors of Field Operations or territory managers so that upper management is informed of this type of examination activity.

4.46.3.8.14 (03-01-2006)

Criminal Investigation Participation in LB&I Examinations

1. Overview - This section discusses the role of Criminal Investigation (CI) in the development of LB&I examination plans and procedures to follow if fraud is detected in LB&I cases.

4.46.3.8.14.1 (03-01-2006)

Criminal Investigation Participation

1. Information in Criminal Investigation Files - CI files may contain helpful information about:
 - A. Current fraud schemes
 - B. Techniques for probing fraud areas
 - C. Evidence of questionable practices surfacing in particular industries
2. Training Available From CI - CI agents may be available for training sessions on interviewing techniques and other topics of a general nature related to its work. These sessions may be accomplished during group meetings or in continuing professional education classes.
3. In-Depth Probes - CI is the team manager's prime source of information for planning in-depth probes. CI may have information on successful techniques for penetrating unusual practices designed to conceal the facts about transactions.

4.46.3.8.14.2 (03-01-2006)

Criminal Investigation Coordinators

1. Designation of CI Coordinators - The Special Agent in Charge (SAC), CI will designate a Fraud Specialist as the local CI coordinator to interact with LB&I and the other operating divisions. This specialist has the responsibility for assisting LB&I in the identification of information of interest to the LB&I agent.

4.46.3.8.14.3 (03-01-2006)

Joint LB&I Criminal Investigation Planning Procedures

1. Copy of LB&I Annual Plan To Be Provided To CI - LB&I headquarters should furnish CI a copy of the annual plan listing the CIC examinations to be started in the ensuing fiscal year. This will provide time for CI to compile information which may be useful in examination planning.
2. Team Manager's Initial Contact with CI - The team manager should contact the CI Fraud Specialist during the initial planning phase of each CIC examination to determine what information and assistance is available to identify areas for an in-depth probe.
3. CI Participation Is Limited - CI participation in planning the examination will be limited to pre-contact assistance.

4.46.3.8.15 (03-01-2006)

Special Examination Features and In-Depth Probes

1. In-Depth Probe Defined - An in-depth probe is a penetrating examination concentrated in a selected account, activity or transaction to determine the accuracy and proper reporting for tax purposes.
2. In-Depth Probes Are "Special Examination Features" - An In-depth probe is called a "special examination feature" when included in an LB&I examination plan.
3. Multiple In-Depth Probes -The team manager, depending on the facts and circumstances for each LB&I case, may want to identify one or more in-depth probes to be included as a special examination feature. The examination plan should provide specific instructions regarding the scope and depth of the probe(s).
4. Control and Purpose of In-Depth Probes -The team manager, in selecting the in-depth probes to be included and identifying the procedures to be used, should keep in mind the purpose of the probe, depth to be achieved, and how the probe is to be controlled.
5. Concurrent In-Depth Income Probes of Shareholders and Partners - An apparent understatement of income for a corporation or other business entity may require a concurrent in-depth examination of the related shareholders or partners. Refer to IRM 4.10, Examination of Returns, for a discussion of in-depth examinations of income and for guidance when using indirect methods of reconstructing income.

4.46.3.8.16 (03-01-2006)

Procedures when Fraud is Indicated

1. Fraud Referral Required - The team manager will follow fraud referral procedures when indications of fraud are discovered during an LB&I examination. Fraud then becomes the controlling factor.
2. Indications of Fraud in Subsidiaries of an LB&I Taxpayer - The examination of an entity may be split from the case and jurisdiction transferred to CI if fraud is indicated in a subsidiary or branch of an LB&I taxpayer. The examination of the other related entities may continue as planned.

4.46.3.8.16.1 (03-01-2006)

Fraud Affecting Third Parties

1. Indications of Fraud by Third Parties - In-depth probes may turn up indications of fraud by third parties being examined under the control of the team managers. Team managers will follow regular fraud referral procedures if indications of fraud by third parties are found. See IRM 25.1, Fraud Handbook.
2. Discontinuation of Coordination of Third Party Examinations - Team managers should discontinue coordination of the third party examination if there are indications of fraud unless there appears to be good reason for retaining control.
3. Continuation of LB&I Examination After Discovery of Indications of Third Party Fraud - Team managers should continue the LB&I examination and maintain close coordination with the Criminal Investigation manager having responsibility for the fraud investigation of the third party.

4.46.3.8.17 (03-01-2006)

Technical Guidance

1. Technical Guidance Available to the LB&I Examination Assistance is available from OBB's Pre-Filing and Technical Guidance program, including available Technical Advisor assistance related to LB&I examinations. Technical guidance has been established to ensure uniform and consistent treatment of issues nationwide and to provide better identification and development of issues.

4.46.3.8.17.1 (12-29-2009)

TA Assistance in Planning the Examination

1. Early Involvement of Technical Advisors - The LB&I Planning Process (the five step process), requires that the technical advisor (TA) be contacted in all identified CICs. This is also recommended for ICs having business activities in an identified industry. It is essential that this contact be made by the team manager as early as possible in the planning process. However, the agent should conduct the necessary research by accessing the TA website before the manager contacts the Technical Advisor.
2. Technical Advisor Attendance at Planning and Orientation Sessions - The team manager should invite the TA to attend the planning meeting and appropriate orientation sessions conducted by the taxpayer if the TA's involvement in the case will be significant.
3. Technical Advisor Assistance in Planning the Audit - The TA will provide the team manager with information relative to a particular industry or issues that will be helpful in setting the scope and depth of the examination. The team manager should be aware of the TA's role in emerging issues and other controlled issues for TAs. See IRM 4.40.3, Coordinated Issues and IRM 4.51.2, LB&I Administrative Guidance. This will include:
 - A. Identification of unique industry issues and coordinated issues;
 - B. Discussion of economic conditions in the industry;
 - C. Description of accounting or business practices peculiar to the industry;
 - D. Suggestions for examination procedures;
 - E. Recommendation of computer programs which may have potential application, etc.
4. Technical Advisor Workload - It is recognized that a TA may not be able to personally assist in every examination plan, but he or she will attempt to participate in as many cases as possible. Alternative means of involvement should be considered in cases where the TA cannot participate in the planning meetings and decisions. Alternatives can include:
 - A. Telephone conferences with the team manager and key team members;
 - B. Development and distribution of information via the TA website;
 - C. Other methods designed to identify industry issues, potential high risk areas, suggested examination procedures, etc.
5. Team Manager/Team With Limited or No Industry Experience - The TA is expected to play a more active role in assisting in the development of the examination plan in those situations where team managers or teams are assigned a case in which they have limited or no industry experience.
6. Other Factors Affecting Extent of Technical Advisor Involvement - The extent to which the TA is involved in a particular case will be determined by factors such as the size of the industry, time available and particular case circumstances.
7. Issues Can Transcend Industry Lines - Team managers should keep in mind that many issues transcend industry lines. Technical Advisors will assist in ensuring that consistent treatment is accorded to all taxpayers irrespective of their industry designation

4.46.3.8.17.2 (03-01-2006)

Technical Advisor Assistance during the Examination

1. Coordinated or Other Issues with Broad Application - Questions will arise relative to various issues during the examination of a LB&I case. The team manager will contact the TA when the question involves a coordinated issue or other issues which have broad application.
2. Technical Advisor's Knowledge of Issues - Technical advisors are in a position to serve as a valuable source of information for the team manager because of their responsibility to maintain a current knowledge of problem areas and issues within their area of expertise.
3. Coordinated Issues Must Be Considered and Developed - Identified coordinated issues must be considered and developed by each team.
4. Technical Advisor Concurrence on Presentation of Coordinated Issues - The team manager is required to provide the TA with a copy of the Form 5701, Notice of Proposed Adjustment, after development of a coordinated issue, but before proposal of the issue to the taxpayer. The issue proposal will be furnished to the taxpayer following receipt of the TA's concurrence.
5. Deviations to Policies Associated with Coordinated Issues - The team manager, in isolated situations, may decide with the concurrence of the TA not to pursue a coordinated issue in a particular examination. The request for the TA's concurrence will include a comprehensive discussion of the rationale for the decision. Team managers may propose resolution of coordinated issues that deviate from the coordinated position with the concurrence of the TA and the TA's Manager.

4.46.3.8.17.3 (03-01-2006)

Technical Advisor Participation in Post-Examination Activities

1. Providing Technical Advisors with a Copy of the Post-Examination Critique - The team manager, upon request from a TA, will provide a copy of the post-examination critique report to the TA if one is available.
2. Technical Advisor Participation in Critique Meetings - TAs may participate in critique meetings with the taxpayer or the examination team in selected situations. Those situations will be determined through mutual agreement of the TA and the team manager.

4.46.3.8.17.4 (03-01-2006)

Responsibilities of the Technical Advisor and Team Manager

1. Responsibilities of the Technical Advisor - The Technical Advisor will be involved in the planning process and the establishment of an effective communications network among managers examining cases within the TA's industry or issue area involving specific coordinated issues. Additionally, the TA will have responsibility, with the concurrence of the Industry Director, for the successful conduct of industry-wide studies and any industry-wide meetings considered necessary. Issue TAs will be available to assist in any industry-wide meetings in which their issues are determined to be significant.
2. TA Role on Coordinated Issues vs. Noncoordinated Issues - The TA role is different depending upon whether the TA is providing assistance with respect to a coordinated issue or a noncoordinated issue. Participation is based upon resources and materiality. TAs will be limited in what they can do for IC examiners because of shorter planned examination spans in IC cases.
3. Responsibilities of the Team Manager - It will be necessary for the team manager and Technical Advisors to communicate and cooperate with each other in order for the TA programs to be successful. Technical Advisors are authorized to request written status reports from team managers either on a one time or recurring basis regarding the status, development, and treatment of issues in an examination. Team managers should provide timely responses to TA requests for information. Efforts will be made by the TA to utilize documents already created for the purpose of securing information.
4. Follow-Up Requests For Information From Technical Advisors - TAs are instructed to route written follow-up requests for any forms, reports, etc., to the team manager.

1. Request for International Team Manager Assistance – The case team manager, in managing a multinational examination, must request the international team manager to participate in all aspects of the case management process, including the decision whether to conduct a general survey of the tax return and the preparation of the examination plan. This request should be made at the earliest planning phase of the examination.
2. Responsibilities of the International Team Manager and International Examiners (IE) - IEs and the international team manager will be responsible for the development and disposition of international tax issues that result from the taxpayer's transactions with, or ownership of foreign entities and foreign controlled corporations.
3. Surveying Returns That Meet International Examination Mandatory Referral Criteria - The domestic LB&I examiner and team manager will not survey any return that meets the International mandatory referral criteria as published in IRM 4.60, International Procedures, without concurrence from the LB&I international team manager.
4. International Procedures - Refer to the International Procedures Handbook, 4.60.6 "International Referral Criteria and Procedures", for more details regarding LB&I International.

4.46.3.9.1 (03-01-2006)

LB&I International Jurisdiction of Examinations of Foreign Corporation Returns

1. Foreign Corporate Asset Threshold of \$10 Million or Greater - LB&I International has jurisdiction in examining returns of foreign corporations (Form 1120F) with assets of \$10 million or greater. SBSE has jurisdiction over Form 1120F returns for taxpayers having less than \$10 million in assets.
2. Books and Records Located Outside of the United States - LB&I IEs have the responsibility for examining LB&I multinational corporations' returns when books and records are maintained outside of the United States.
3. Procedure for Requesting International Examiner Assistance - The Specialist Referral System (SRS) procedures (See IRM 4.60) will be used to request assistance of LB&I international examiners.

4.46.3.9.2 (03-01-2006)

Notifying the Taxpayer of Intent to Examine International Issues and Foreign Entities

1. Part I of the Examination Plan - Part I of the Examination Plan should clearly set forth the names and location of all foreign entities to be examined, including those which will be examined only from records made available within the United States. This portion of the examination plan must include the notification statement shown immediately below in Paragraph (2) of this IRM section.
2. Formal Notification To Taxpayer of Intent to Examine International Issues and Foreign Entities - Part I of the examination plan must include the following statement: "During this examination, adjustments may be recommended to your income tax liability causing an economic double taxation as a result of your various affiliates operating in foreign countries. Therefore, we suggest you advise your foreign affiliates in these countries to notify the appropriate taxing authorities about postponing the expiration of the statutory period of limitations on refunds or other tax adjustments. This procedure should not be limited to those foreign affiliates listed on this portion of the examination plan. In the event these adjustments affect the tax liability of an affiliate operating in a treaty country, you have the right to request competent authority consideration for relief from economic double taxation under Rev. Proc. 2002-52. "
3. Coordinating Foreign On-Site Examinations with the Taxpayer - The taxpayer should be asked to advise the foreign entity of the Service's intentions to conduct foreign on-site examinations. The team manager should obtain from the taxpayer a letter confirming that arrangements for the examination have been made with the foreign entity. This letter should clearly state that books and records will be made available for examination. The taxpayer will agree to make available a corporate official or employee to assist in translating these records if necessary. The team manager should solicit the taxpayer's input on how to best secure the information from the foreign site.
4. Prohibitions on Direct Contacts with Foreign Taxpayers - Note that direct contact by the IRS examiner with individuals/entities in a foreign country may be prohibited by law, depending on the country involved. The Office of the Director, International (LB&I) should be consulted prior to making a direct contact with a foreign taxpayer.

4.46.3.9.3 (03-01-2006)

Selection of Foreign On-Site Examination Team

1. Foreign On-Site Examination Team Selection – Typically, LB&I international examiners will conduct the foreign on-site examination. There may be circumstances requiring a team for on-site examinations. The determination as to whether a foreign on-site examination team is needed will depend on the size of the entity to be examined, the scope of the examination, the need for other specialists, and whether the knowledge of home office books and records will expedite the on-site examination. The LB&I international examiner and the international team manager will coordinate with the team manager regarding the composition of the on-site examination team and the administrative aspects discussed below.

4.46.3.9.4 (03-01-2006)

Requirements Associated with Requests for Foreign Travel

1. Contact the International Travel Office - Employees should access the International Travel Office on the LB&I Website for procedures that apply to their travel situation. Those procedures should be followed by all team members who will be conducting the foreign on-site examination. These procedures generally require a memorandum, submitted through the territory, field operations and industry, setting forth:
 - A. The names of the participants and their role in the on-site examination;
 - B. Approximate dates for the examination;
 - C. The country or countries involved;
 - D. A copy of the taxpayer's confirmation letter;
 - E. A narrative on the examination purpose, scope, and techniques, being specific with regard to any techniques which require dealing with other persons or organizations outside the corporate structure.
2. 75 Days Required Prior to Foreign Travel - The Industry Director or delegate will forward the memorandum request for foreign travel related to an on-site examination to the Director, International (LB&I). Allow 45 days for processing of this request if the traveler does not have a valid official passport on file, or 30 days if a valid passport is on file. The on-site examination should not be scheduled earlier than 30 workdays after the appropriate official in the Office of the Director, International (LB&I) approves the foreign travel request to allow time for administrative aspects, such as obtaining passports and inoculations.
3. Form 1321 and Travel Authorization - An executed Form 1321, Authorization for Official Travel, is your foreign travel authorization.
4. Requests for Expedited Approval of Foreign Travel - Contact the Office of the Director, International (LB&I) for assistance in expediting your foreign travel request if a lead time of 30 days cannot be arranged.
5. State Department Jurisdiction and Sanction - The responsibility for actions of Federal employees in foreign countries is placed on the ambassadors of the respective countries by Presidential letter. Therefore, all official activities in foreign countries are subject to State Department sanction. The degree of authority granted by any particular ambassador for conducting activities in his or her assigned country will vary according to the conditions existing at the time in that country.
6. IRS Official Position Grants No Official Authority in Foreign Countries - U.S. tax officials in a foreign country have no authority by reason of their position. They act solely on authority from the U.S. State Department in conjunction with the particular foreign government. A precise understanding of the scope of that authority is essential in avoiding embarrassing incidents or possible violations of foreign law or customs. It is inadvisable for agents not trained to cope with matters in this delicate area to conduct

4.46.3.9.5 (03-01-2006)

Other Methods for Obtaining Information For Foreign Countries

1. Alternatives to On-Site Foreign Examinations - There are alternatives to on-site examinations for obtaining necessary information. These methods include "collateral requests" , "requests for information pursuant to treaties" , and the "Simultaneous Examination Program" . These alternatives are described below.
2. Collateral Requests - Collateral request procedures may be used as an alternative to foreign on-site examinations. Collateral requests generally involve obtaining specific information, whereas, an assistance or support request involves an examination of an entity. Examples of information which may be obtained through a collateral request are:
 - Overseas interviews
 - Foreign economic and mercantile data
 - Information about accounting systems
 - Certain types of investigative work
 - Specific records of foreign entities
3. Requests for Information Pursuant to Treaties - The Manager, Office of Tax Treaties, will determine whether the requested information should be obtained by Service personnel stationed abroad or obtained through established Competent Authority procedures. These procedures are outlined in IRM 4.60, International Procedures.
4. Simultaneous Examination Program - The Simultaneous Examination Program consists of working arrangements agreed to with various foreign governments with whom the Service has income tax treaties or Tax Information Exchange Agreements (TIEAs). This program is designed to facilitate the exchange of information between treaty partners and to coordinate the tax treatment of taxpayers with activities in more than one country. The Service and the tax administration of a treaty partner agree to coordinate their examinations of related taxpayers in their respective jurisdictions under mutually agreed working agreements. See IRM 4.60 for more information on the Simultaneous Examination Program, including how to make a proposal for a simultaneous examination. A list of countries with working agreements with the United States can be found in IRM Exhibit 4.60.3-1, Income Tax Treaties.

4.46.3.9.6 (03-01-2006)

Dealing with Foreign Taxpayers

1. Foreign and Domestic Examination Activities are Similar - Conducting an examination of a foreign affiliate is done in much the same way as those performed on domestic entities.
2. Examination Activities Inside the U.S. - Most problems which arise may be disposed of in the same way as domestic examinations. This includes obtaining relevant books and records, interviewing corporate officials, employees and witnesses who are residents of the U.S., even though they may be foreign citizens.
3. Examination Activities Outside the U.S. - Sensitive situations may develop when interviewing foreign citizens residing in foreign countries and contacting foreign government officials residing either in or outside the United States. These matters come within the jurisdiction of the Office of the Director, International (LB&I), and should be brought to its attention through the Industry Director.

Exhibit 4.46.3-1

Agenda for Planning Meeting

Planning Meeting Agenda Topics

1. Background of the taxpayer
2. Prior examinations and results
3. Status of any cycles in Appeals
4. Claims filed by the taxpayer
5. Prior taxpayer relationships (how cooperative?)
6. Review of tax returns
7. Review of Annual Reports
8. Review of SEC Reports
9. Review of Planning File
10. Review of prior RARs
11. Discussion of carry-over issues
12. Review of Industry Issues
13. List potential issues in this cycle
14. Discussion of Risk Analysis process
15. Discussion of financial interest in assignments
16. Review of IRM 4.46.3.8 (Resources Available to the Team Manager)
17. Reporting requirements for team members
18. Presentations by all specialists
19. Roles of the team manager and team coordinator
20. What to expect during on-site visits by team manager
21. List of questions and topics to discuss with taxpayer during opening conference
22. Discussion of taxpayer's rights, privacy (disclosure), and unauthorized access to taxpayer's accounts
23. Discussion of how third-party contacts will be handled

24. Discussion of statutes, notification of taxpayer's rights
25. Discussion of privilege and tax accrual workpapers
26. Discussion of Technical Advice Requests, i.e., TAMs, TEAMS (taxpayer is involved) and possible Chief Counsel Advice requests
27. Discussion of STC's requirement to provide feedback on team member's performance if the case has a senior team coordinator
28. Discussion of policy and practice regarding responses to requests for work/case related information from external stakeholders/other IRS employees outside case. See IRM 4.46.3.4.2.2.1.
29. Discussion of adequate documentation for examination reports (IRM 4.46.6.6) and taxpayers' agreement or non-agreement to those reports (IRM 4.46.6.7 to 4.46.6.9), and clarification of an agreed issue, that unless the taxpayer signs Form 870, the issue will be treated as unagreed per IRM 4.10.8.11.

Exhibit 4.46.3-2 Agenda for Opening Conference

The opening conference/ initial interview should be modified based on the taxpayer, your experience with the taxpayer and the industry. The agenda should be shared with the Team Manager. The agenda includes items that are relevant to the examination. Agenda items you should consider are:

1. Publication 1 - Your Rights as a Taxpayer, Notice 609 - Privacy Act.
2. Years - This will be a ____ year examination cycle. We will be auditing the years ended ____, and ____.
3. Propose starting and closing dates for examination.
4. Discuss the following: Rollovers, Achieving Quality Examinations through Effective planning, Execution and Resolution Publication, One-Stop Service, Service's efforts to achieve currency, Review of the tax returns for officers, key corporate executives and controlling shareholders, Statute extension policy and taxpayer's rights, large frozen refunds. General discussion of specialist involvement, LIFE Process and possibility of using LIFE, LB&I Rules of Engagement.
5. Discussion of Facilities:
 - Location of business office where IRS personnel will be conducting examination
 - Hours of access - normal working hours are xx am to zz pm, There are people in the office from x am to z pm,
 - Workspace will be needed for at least ____ individuals.
 - Contact points and procedures - information document request (IDR's), consents to extend the statute of limitations, whom to discuss issues with, security, and Computer Audit Specialist contact personnel.
 - Electrical outlets (probably minimum of ____)
 - Telephone/LEXIS (____ phones lines, if possible, data and voice). Will the phone lines be analog or digital? Will there be a straight outside line?
 - Availability of copier for making copies
 - Fax machine access
 - Space for filing cabinet
 - Locks/Security (Who will have keys to the IRS office?)
 - Are permanent badges or other ID required?
 - Are sign in and /or sign out procedures required?
 - Initial interview is scheduled for: Date & Time
 - Discuss revision procedures regarding Sec. 6662 disclosure
6. Computer records - We would like to conduct the examination through the computer as much as possible. We will discuss needs and procedures in this area. I envision that we will be able to download general ledger and all detail records to databases that I will be able to utilize during the planning phase of the examination.
7. Taxpayer must comply with the record retention limitation agreement (Rev. Proc. 98-25). Taxpayer should maintain books and records by using electronic storage system that either images their paper books and/or transfers their computerized books and records to a electronic storage media (Rev. Proc. 97-22).
8. Location and availability of controlled foreign corporation records.
9. Arrange for the review of all necessary work papers, reports, corporate minutes and other pertinent records.
10. Information Document Requests - Form 4564 will be utilized to request information. Discuss provisions of the IDR Management Process. A response by the taxpayer within days will expedite the completion of the examination.
11. Provide alternative contact person in case the primary contact is gone for more than one week. Notify audit team when there are periods where the taxpayer may be unable to respond to IDRs and other requests by the team.
12. Issues - Form 5701, Notice of Proposed Adjustment will be used for all issues raised. A response by the taxpayer within ____ days will expedite the completion of the examination.
13. Technical Advice - Any need for Technical Advice should be made as soon as possible so closing is not delayed.
14. Claims - Any informal or formal claim covering these years should be given directly to the Team Coordinator as soon as possible. If any sent to the Service Center we need to know, since they will be associated with the open examination. Failure to make the audit team aware of claims may delay closing the examination.
15. Regular meetings - The Team Manager will be available and progress meetings will be scheduled as necessary. Our next formal meeting will be for the initial review.
16. Discuss Communication Agreement - Communication agreement must identify individuals in the taxpayer's organization who are authorized to provide and receive information, who may discuss tax matters and those whom adjustments may be proposed. A written authorization must be secured and signed by the responsible officer, IRC 6103.
17. Issue Mandatory Tax Shelter IDR
18. Issue Mandatory Cross Border Transactions IDR if Form 5471 or 5472 is present. If not, ask the taxpayer if they had any Cross Border Transactions with any entity in which they had an economic interest. If the answer is yes, issue the IDR.

19. Discussion of Issue Management Process and Industry Focus Compliance (Tax Issues)
20. Resolution of issues at the lowest level using issue resolution tools:
 - A. Application of Appeals Settlement to LB&I Taxpayers (D.O. 236 in force (D.O. 4-24))
 - B. Settlement Authority for Coordinated Issues (D.O. 4-25)
 - C. Advanced Pricing Agreements (Rev. Proc. 2006-9)
 - D. Early Referral to Appeals (Rev. Proc. 99-28)
 - E. LB&I Fast-Track Process (Form 4539)
 - F. Accelerated issue Resolution (Rev. Proc. 94-67)

**Exhibit 4.46.3-3
LB&I Planning File**

- A. General
- B. Identification and History of Taxpayer
- C. Organization
- D. Reorganizations, Acquisitions, and Liquidations, etc.
- E. Accounting Records and Procedures
- F. Continuing Year-to-Year Analysis
- G. Contracts, Documents and Agreements
- H. Examination Support
 - I. Current Data Affecting Subsequent Years
- J. Risk Analysis
- K. Examination Plan
- L. Reports
- M. ADP & Computer Applications
- N. Post-Examination Critique
- O. Miscellaneous
- P. Record of Examination Team Activity

The planning file or folder is the single, most important document to a team manager in planning CIC examinations. Its purpose is to provide the team manager assigned to the next cycle with as much data about the taxpayer as possible so that he or she may develop an effective, efficient examination plan. The maintenance of this file requires constant updating, purging of unnecessary data, and inserting the current information so that the resulting product reflects the examination needs of the next cycle. The index shown above is the suggested indexing of the Planning File, however, team managers are encouraged to adopt any indexing system that works for them.

**Exhibit 4.46.3-4
Compliance Checks Audit Tool**

Audit Step	Type of Examination				
	Full Scope(A)	LIFE Exam (B)	Remote Exam (C)	Flow Through Exam (D)	Effective 5/1/2008 Risk-Based/ Issue Focused(E) Filter-Focused Exam (F) Compliance Initiative Project (CIP) (G)
Mandatory Tax Shelter IDR	Required	Required	Required	Required	Required
Any Other Mandatory IDR	Required	Required	Required	Required	Required
IRM 4.51.5, Industry Focused and Control of LB&I Compliance Issues 1	Required	Required	Required	Required	Required
Inventory Checks	Not Required	Not Required	Not Required	Not Required	Not Required
Minimum Income Probe	Required 2	Required 2	Required 2	Not Required 2	Not Required 2
Filing Compliance Checks 7	Required	Waiver 4	Waiver 5	Not Required	Waiver 6
Related Returns	Required	Required	Waiver 5	Not Required	Required
Prior and Subsequent Years	Required	Required	Waiver 5	Required	Required
Information Returns	Required	Waiver 4	Waiver 5	Not Required	Waiver 6
Employment Tax Returns	Required	Waiver 4	Waiver 5	Not Required	Required
Questionable W-4's 9	Not Required	Not Required	Not Required	Not Required	Not Required
Forms 8300 & CTR's	Required	Required	Required	Not Required	Not Required
Excise Tax	Required	Waiver 4	Waiver 5	Not Required	Waiver 6
Form 5500 Pension returns	Required	Waiver 4	Waiver 5	Not Required	Waiver 6
Form 5471 Information Return of U.S. Persons 8	Required	Waiver 4	Waiver 5	Not Required	Required 8
Form 5472 Information Return of 25% Foreign Owned Corporation 8	Required	Waiver 4	Waiver 5	Not Required	Required 8
Any Other Required Check	Required	Waiver 4	Wavier 5	Not Required	Waiver 6

Heading Descriptions

- A. Full scope examinations are performed when the facts and circumstances warrant (i.e., undisclosed tax shelters, fraud, egregious non-compliant taxpayer)

C. See Remote Examinations Home Page.

D. See IRM 4.10.2.3.4 (1), Step 3: Required Filing Checks. When the scope of the examination is limited to a flow-through adjustment, the required filing checks may be limited to consideration of the taxpayer's prior and subsequent year returns. If the audit is more extensive, full steps are required for Limiting the Scope of the Examination, including risk analysis. 4.10.2.6.1.1.

E. Taxpayer returns would not be eligible for the indicated waivers if undisclosed tax shelters, fraud, or egregious non-compliance exists. Risk-based, issue-focused examinations are based on the objective of substantial compliance. These examinations address issues of non-compliance while maximizing resources (staffing and time) to meet organizational goals through program management. Proper consideration should be given to IRM 4.51.5 (e.g. emerging issues, Tier I & Tier II issues) and technical resources. Income probes could be waived in situations when income has not been identified as a significant non-compliance item. Filing compliance checks could be waived when risk based analysis justifies a lack of potential in these areas. Eliminating these compliance checks allows significant time savings to focus on high risk areas.

F. A filter-focused examination is a case that has been pre-screened for risk, evaluated by subject matter experts, and sent to the field with case building information and filter selection source information. Agents subsequently validate filters and risk assessment, perform the examination, and provide feedback on filters used to select the case. See: Filter Focused Examination Home Page and FAQs.

Footnote 1: IRM 4.51.5 All examinations must consider IRM 4.51.5 (Industry Focused and Control of LB&I Compliance Issues).

Footnote 2: IRM 4.10.2.6.2 Inventory Checks: Note: Inventory is no longer a mandatory issue.

- If, with group manager approval, the minimum checks to verify that inventories are correctly reported are not completed as required above, then the workpaper documentation outlined in item (3) of this section will not be required and the group manager's involvement in the case will be noted in the case file. IRM 4.10.2.6.2(4)

Inventory Checks: If inventory is classified as an issue, examiners will verify that inventories are reported correctly. The techniques outlined below are suggested as minimum checks. It is not necessary that all the techniques be used; only that they be used to the extent needed to determine that inventories are correctly reported (see IRM 4.10.2.6.2(1)).

Footnote 3: IRM 4.10.4 Examination of Income: Gross income will be considered during the examination of income tax returns unless the scope of the examination has been limited to one or two items because the return does not appear to be worthy of examination for any other issues.

- See 4.10.4.3.3 (2) Minimum Income Probes: Individual "Business" Returns (09-11-2007):

- An examination of gross income on an individual business return will include the following audit techniques:

- A Financial Status Analysis to estimate whether reported income is sufficient to support the taxpayer's financial activities.
- An interview with the taxpayer (or representative) to gain an understanding of the taxpayer's financial history, identify sources of nontaxable funds and establish the amount of currency the taxpayer has on hand. See Exhibit 4.10.4-1, Interview Questions Addressing Accumulated Funds. (See page 75.)
- A tour of the business site to gain familiarity with the taxpayer's operations and internal controls, and identify potential sources of unreported income.
- An evaluation of internal controls to determine the reliability of the books and records, identify high risk issues, and determine the depth of the examination of income.
- Reconciliation of the income reported on the tax return to the taxpayer's books and records.
- An analysis of the taxpayer's personal and business bank accounts to evaluate the accuracy of gross receipts reported on the tax return.
- An analysis of business ratios to evaluate the reasonableness of the taxpayer's business operations and identify issues needing a more thorough examination.

- See IRM 4.10.4.3.4 (2): "Minimum Income Probes: Corporations and Other Business Returns" :

- An examination of gross income on a business return for a corporation or other business entity should include the following minimum steps:

- A. Complete a Balance Sheet Analysis,
- B. Reconcile Schedules M-1, M-2 and M-3,
- C. Evaluate the tax returns of significant shareholders or partners (greater than 20% direct or indirect ownership),
- D. Interview the taxpayer,
- E. Tour of the business site,
- F. Evaluation of the internal controls,
- G. Test Gross Receipts or Sales, and
- H. Business Ratio Analysis.

Footnote 4: LIFE MOU must be signed before LIFE mandatory items can be waived. Must use LIFE Waiver form and get manager's approval. See IRM 4.51.3.3.6(4).

- (If the examination involves a financial institution, the review of information returns may not be waived. See the note at IRM 4.51.3.3.6(4)).

Footnote 5: Must use Remote examination waiver form and get manager's approval.

- See Remote Examination Home Page.

- Review of Prior/Subsequent and/or related returns may not be waived if an issue is present in Prior/Subsequent and/or related returns. (If the examination involves a financial institution, the review of information returns may not be waived. See the note at IRM 4.51.3.3.6(4)).

Footnote 6: Mandatory compliance checks will be streamlined as follows:

- Minimum Inventory Check is no longer a mandatory requirement. Minimum Income Probe will be waived at agent's discretion. Related Returns – Verify up to date filings and inspection of returns
- Corporate Officer's Returns – Review of TRPRT will suffice for electronically filed returns. For non-electronically filed returns, establish filing through internal electronic research. Inspection of returns must be obtained through internal sources or by use of L-3996 per IRM 4.10.5.4, 4.46.3.8.4 and Commissioner Memo 8/ 24/2004 or request officer's returns from the campus or corporate officer.
- Prior and Subsequent Year Returns – This requirement will suffice by review of TIG report or electronic research included in the case file. Employment Tax returns – Verify up to date filings and inspection of returns. Form 5471 and 5472
- This requirement will suffice by review of the Taxpayer Information Gateway (TIG) report included in the case file. Form 5500 filing verification is required for examinations that are under consideration for referral for EP issues.
- If the examination involves a financial institution, the review of information returns may not be waived.

Footnote 7: See IRM 4.10.5, Required Filing Checks.

Footnote 8: Per IRM 4.46.3-3.3(3), attached Forms 5471 or 5472 should be reviewed prior to the opening conference to determine if any potential Transfer Pricing Issues are present. See IRM Exhibit 4.46.3-5, Transfer Pricing Compliance Processes. (For a lower point IC case, this will happen after the opening conference.)

Footnote 9: The review of the Form W-4s has become a campus operation. IRM 5.19.11.1 explains that the Withholding compliance (WHC) program replaces the Questionable W-4 program.

Exhibit 4.46.3-5 **Transfer Pricing Compliance Processes**

LB&I Commissioner
Directive Transfer Pricing Compliance Processes
22-Jan-03
Documentation

1. At the joint opening conference for each audit cycle, issue a written information document request for a copy of any transfer pricing documentation prepared by the taxpayer pursuant to section 6662(e). The following language should be used to request the pricing documentation: "Please provide within 30 days of this request any principal documentation outlined in Treas. Reg. § 1.6662-6(d)(2)(iii)(B) that has been prepared."
2. Apply the 30-day time frame provided by statute for providing a copy of any documentation prepared pursuant to section 6662(e). The discretion authorized by the regulations to excuse minor or inadvertent failures to provide required documents is limited to those situations where the taxpayer has made a good faith effort to comply and promptly remedies the failure when it becomes known, and should be exercised sparingly. With the exception of the principal documentation items described in Treas. Reg. § 1.6662-6(d)(2)(iii)(B)(9) and (10), any documentation prepared by taxpayers pursuant to section 6662(e) must be in existence when the return is filed in order to be used to meet the documentation requirement of Treas. Reg. § 1.6662-6(d)(2)(iii).
3. If, as the statute permits, the taxpayer has not prepared section 6662(e) documentation, issue a written information document request at the beginning of the audit for relevant information regarding the taxpayer's transfer pricing practices. An exception should be made only if recent experience with the taxpayer has indicated that examination of some or all transfer pricing issues is unnecessary, and there have been no major changes in the taxpayer's transfer pricing practices.
4. Follow similar processes where Industry Cases are selected for audit.

Audit Planning Process

1. As soon as the taxpayer's section 6662(e) documentation or other transfer pricing information is received, refer it to an international examiner and/or economist for risk assessment.
2. If the risk assessment indicates that transfer pricing issues should be examined, include those issues in the audit plan.
3. In accordance with current IRM procedures, refrain from pursuing de minimis transfer pricing adjustments. Where the Limited Issue Focused Examination (LIFE) process is being used, the materiality thresholds and other procedures specified in IR 2002-133 (December 4, 2002) should be followed for transfer pricing issues, as for others.

Section 6662(e) Penalty

1. Assert the penalties provided under section 6662(e) where warranted. Under the law, an otherwise applicable net section 482 transfer price adjustment penalty under section 6662(e)(3) may not be waived unless documentation is prepared and submitted in accordance with the requirements of the statute and regulations.
2. If the team decides to propose an adjustment that would trigger a section 6662(e) penalty, the Penalty Screening Committee must review the case before the 30- or 90-day letter is issued. (See Announcement 96-16, 1996-13 I.R.B. 22.)
3. If the penalty threshold is met but the team decides not to propose the penalty, the concurrence of the responsible International Territory Manager must be obtained. The International Territory Manager should forward a copy of relevant documentation that explains the decision to the International Penalty Technical Advisor.

Exhibit 4.46.3-6 **Process Checklist – \$75,000 or more LB&I OEP Funding Request**

1. Examination Team determines potential need for outside expert assistance and provides required notification to FSp Territory Manager who has primary responsibility for providing Specialist support on the subject issue. The Industry Team Manager should notify the Industry's representative on LB&I's Outside Expert Budget Committee.
2. FSp Team Manager and FSp Territory Manager with primary responsibility for providing Specialist support on the issue determine if in-house Specialists can provide the expert services, and must indicate preliminary concurrence with the request to hire outside expert assistance.
3. Industry Team Manager secures documentation of Industry Executive level concurrence to hire outside experts if the total estimated cost is \$500,000 or more. Industry Director of Field Operations concurrence is required if the cost is \$500,000 or more. Industry Director concurrence is required if the total cost is \$1 million or more.
4. If the COTR does not have primary responsibility for providing Specialist support to the examination, the FSp Team Manager who has primary responsibility shall designate a Specialist "Point-of-Contact" (POC) within his/her FSp Program to serve as FSp's primary resource person to guide and assist the team and COTR with the request for and management of the outside expert services. (NOTE: A non-FSp Specialist may serve as technical POC if no qualified FSp Specialists are available.)
5. Examination Team prepares request for pre-approval of funding with assistance from the COTR and forwards the funding request package to the Engineer Team Manager responsible for providing Engineer support to the examination for review and concurrence. FSp Team Manager and FSp Specialists POC with primary responsibility for providing Specialist support on the issue must be involved whether assigned to the case or not.
6. Engineer Team Manager responsible for providing Engineer support to the examination secures a RTS requisition number by having the request input into RTS and shall be in the RTS approval path and insures that the RTS requisition number is input on the "LB&I Outside Expert Pre-Approval Worksheet" .
7. Engineer Team Manager responsible for providing Engineer support to the examination, after his/her approval, simultaneously sends the funding request package via secure e-mail for concurrence to:
 - Industry Territory Manager with a cc to the Industry Team Manager,
 - FSp Team Manager with primary responsibility for the issue (if not the Engineer Team Manager),
 - FSp Territory Manager with primary responsibility for the issue,
 - Engineer Territory Manager responsible for providing Engineer support to the examination.

Note:

Use of secure e-mail is required to submit funding requests – printed documents will not be accepted.

The Engineer Team Manager shall send a copy of the funding request package to the Industry representative on the Outside Expert Budget Committee for information purposes only.

8. Engineer Team Manager responsible for providing Engineer support to the examination forwards the request through RTS to the Engineer Territory Manager responsible for providing support to the examination.
9. Engineer Territory Manager responsible for providing Engineer support to the examination may assume approval of the Industry Territory Manager unless notified otherwise by the Industry Territory Manager within five working days after the Engineer Team Manager sends the request package to the Industry Territory Manager. Written documentation of Industry Executive level support is required on all requests where the total cost is \$500,000 or more and must be provided to the Outside Expert Budget Committee (DFO-\$500,000 or more / Industry Director - \$1 million or more).
10. For \$75K or more requests only, Engineer Territory Manager forwards the funding pre-approval package via secure e-mail to the FSp Headquarters Outside Expert Program Analyst after receiving documentation of all required approvals.
11. Requests for \$75K or more must be provided to the FSp Headquarters Outside Expert Program Analyst 30 days prior to a Budget Committee meeting.
12. Complete, fully documented funding request packages are required for Budget Committee review. The FSp Headquarters Outside Expert Program Analyst shall return all incomplete \$75K or more funding request packages to the requesting Engineer Team Manager with a copy to the Industry representative on the Outside Expert Budget Committee.
13. For \$75K or more requests only, Engineer Territory Manager responsible for providing Engineer support to the examination holds the RTS request until after being notified of the Budget Committee's funding decision. Only requests pre-approved for funding by the Budget Committee shall be forwarded in RTS. Requests not pre-approved for funding shall be rejected in RTS back to the requester.
14. The FSp Headquarters Outside Expert Program Analyst shall notify the requesting team of funding approval or disapproval on \$75K or more requests within three (3) working days after a Budget Committee meeting.
15. The COTR shall monitor RTS and coordinate with Procurement immediately after being notified of funding pre-approval.
16. Examination teams shall provide fully documented requisition packages to AWSS Procurement within 30 days after notification of pre-approval of funding. Failure to timely provide a fully documented requisition package to Procurement within the 30 days will, except in very unusual situations, result in loss of funding approval (See the Engineer website for an example of a fully documented outside expert requisition package).
17. Engineer Team Manager and Industry Team Manager shall be responsible for having notification sent to the FSp Headquarters Outside Expert Program Analyst that the requisition package has been sent to Procurement within 30 days as noted above.
18. Quarterly status reports shall be provided to the FSp Headquarters Outside Expert Program Analyst by the Industry Team Manager with copies to Industry Territory Manager, Industry representative on the Budget Committee, Engineer Team Manager and to the Engineer Territory Manager (To be prepared and submitted within 15 calendar days after the end of each calendar quarter.)
19. A contract closing report shall be provided to the FSp Headquarters Outside Expert Program Analyst by the Industry Team Manager with copies to Industry Territory Manager, Industry representative on the Budget Committee, Engineer Team Manager and the Engineer Territory Manager when the examination is closed.

Exhibit 4.46.3-7

Process Checksheet – Under \$75,000 LB&I OEP Funding Request

1. Examination Team determines potential need for outside expert assistance and provides required notification to FSp Territory Manager who has primary responsibility for providing Specialist support on the subject issue. The Industry Team Manager should notify the Industry's representative on LB&I's Outside Expert Budget Committee.
2. FSp Team Manager and the FSp Territory Manager with primary responsibility for providing Specialist support on the issue determine if in-house Specialists can provide the expert services, and must indicate preliminary concurrence with the request to hire outside expert assistance.
3. Engineer Team Manager responsible for providing Engineer support to the examination coordinates the assignment of a Contracting Officers Technical Representative (COTR) to assist the team after receiving documentation of preliminary concurrence of the FSp Territory Manager who should have primary responsibility for providing Specialist support on the subject issue.
4. If the COTR does not have primary responsibility for providing Specialist support to the examination, the FSp Team Manager who has primary responsibility shall designate a Specialist Point-of-Contact (POC) within his/her FSp Program to serve as FSp's primary resource person to guide and assist the team and COTR with the request for and management of the outside expert services. (NOTE: A non-FSp Specialist may serve as technical POC if no qualified FSp Specialists are available.)
5. Examination Team prepares request for pre-approval of funding with assistance from the COTR and forwards the funding request package to the Engineer Team Manager responsible for providing Engineer support to the examination for review and concurrence. FSp Team Manager and FSp Specialist POC with primary responsibility for providing Specialist support on the issue must be involved whether assigned to the case or not.
6. Engineer Team Manager responsible for providing Engineer support to the examination secures a RTS requisition number by having the request input into RTS and shall be in the RTS approval path and insures that the RTS requisition number is input on the "LB&I Outside Expert Pre-Approval Worksheet" .
7. Engineer Team Manager responsible for providing Engineer support to the examination, after his/her approval, simultaneously sends the funding request package via secure e-mail for concurrence to (NOTE: Use of secure e-mail is required to submit funding requests – printed documents will not be accepted.):
 - Industry Territory Manager with a Cc to the Industry Team Manager
 - FSp Team Manager with primary responsibility for the issue (if not the Engineer Team Manager)
 - FSp Territory Manager with primary responsibility for the issue
 - Engineer Territory Manager responsible for providing support to the examination

The Engineer Team Manager shall send a copy of the funding request package to the Industry representative on the Outside Expert Budget Committee for information purposes only.

8. Engineer Team Manager responsible for providing Engineer support to the examination forwards the request through RTS to the Engineer Territory Manager responsible for providing support to the examination.
9. Engineer Territory Manager responsible for providing Engineer support to the examination may assume approval of the Industry Territory Manager unless notified otherwise by the Industry Territory Manager within five working days after the Engineer Team Manager sends the request package to the Industry Territory Manager.
10. For requests less than \$75K only, the Engineer Territory Manager, upon his/her approval, forwards the request through RTS and forwards a copy of only the "LB&I OUTSIDE EXPERT PRE-APPROVAL WORKSHEET" to the FSp Headquarters Outside Expert Program Analyst after receiving documentation of all required Field-level approvals. The Engineer Territory Manager shall reject RTS requests back to the requester if he/she does not approve the funding.
11. The COTR shall monitor RTS and coordinate with Procurement immediately after being notified of funding pre-approval.
12. Examination teams shall provide fully documented requisition packages to AWSS Procurement within 30 days after pre-approval of funding. Failure to timely provide Procurement with a fully documented requisition package within the 30 days will, except in very unusual situations, result in loss of funding approval (See the Engineer website for an example of a fully documented outside expert requisition package).

13. Engineer Team Manager and Industry Team Manager shall be responsible for having notification sent to the FSp Outside Expert Program Analyst that the requisition package has been sent to Procurement within 30 days as noted above.
14. Quarterly status reports shall be provided to the FSp Headquarters Outside Expert Program Analyst by the Industry Team Manager with copies to Industry Territory Manager, Industry representative on the Budget Committee, Engineer Team Manager and to the Engineer Territory Manager (to be prepared and submitted within 15 calendar days after the end of each calendar quarter).
15. A contract closing report shall be provided to the FSp Headquarters Outside Expert Program Analyst by the Industry Team Manager with copies to Industry Territory Manager, Industry representative on the Budget Committee, Engineer Team Manager and the Engineer Territory Manager when the examination is closed.

Exhibit 4.46.3-8

Instructions - Requests For LB&I Outside Expert Funding

1. GENERAL INSTRUCTIONS – See Engineer website for additional information and for copies of required worksheets and reporting templates.

- Use the "LB&I OUTSIDE EXPERT PRE-APPROVAL WORKSHEET" found on the LB&I Field Specialists Engineer Website for all requests for pre-approval of LB&I outside expert funds.
- Regardless of cost, the Engineer Territory Manager responsible for providing Engineer support to the examination will send a copy of the "LB&I OUTSIDE EXPERT PRE-APPROVAL WORKSHEET" to the FSp Headquarters Outside Expert Program Analyst.
- The request should cover all Examination and Appeals related expenses (Do not include expenses for trial assistance).
- To generate a RTS Requisition Number, the request should be input into RTS when the "LB&I OUTSIDE EXPERT PRE-APPROVAL WORKSHEET" is prepared. Only pre-approved requests should be forwarded in RTS past the Engineer Territory Manager.
- The Engineer Team Manager responsible for providing Engineer support to the examination shall be in the RTS approval path and will be responsible for having the request input into RTS and having the RTS requisition number placed on the "LB&I OUTSIDE EXPERT PRE-APPROVAL WORKSHEET" .
- Engineer Territory Managers can pre-approve requests where the total cost for the outside expert contract is less than \$75,000.
- Requests for contracts costing \$75,000 or more must be submitted to LB&I's Outside Expert Budget Committee through the Engineer Territory Manager responsible for providing Engineer support to the examination.
- It is required to determine whether in-house Specialists can perform the expert services, therefore, the FSp Territory Manager with primary responsibility for providing Specialist support is required to indicate concurrence to use outside experts (whether or not the Specialist is assigned to the case/issue).
- Industry Team Manager and Industry Territory Manager concurrence is required on all requests.
- 30-Day Limit On Pre-approval - Fully documented, complete requisition packages must be sent to Procurement within 30 days of pre-approval of funding. Except in very unusual situations, failure to comply with this 30-day deadline will result in recall of the funding approvals. (See the Engineer website for an example of a fully documented requisition package).

2. PROCESS CHECKSHEETS

- Refer to the following process checksheets for additional information:

-"PROCESS CHECKSHEET – UNDER \$75,000 LB&I OEP FUNDING REQUEST"

-"PROCESS CHECKSHEET – \$75,000 or more LB&I OEP FUNDING REQUEST"

- Copies of these checksheets can be found on the Engineer website.

3. REQUESTS FOR \$75,000 OR MORE

- Provide a written recommendation from Counsel - Counsel should indicate:

- Whether or not they support the legal foundation for the issue,

- Provide a summary of litigation history related to the issue,

- Fully explain the complexity of the issue,

- Explain why outside experts are necessary, and

- Explain why Counsel perceives whether or not there is potential for litigation.

- Provide a written recommendation from PFTG - The Technical Advisor should address the compliance impact of the issue, explain the complexity of the issue and explain why outside experts should be used.

4. THE WORKSHEET AND ATTACHMENTS

- All submitted documents must be in a digital format and transmitted by secure e-mail.
- Use the Tab key to move from field to field on worksheets as posted on the Engineer website. The fields will expand to hold necessary input.
- Incomplete applications for \$75K or more will be returned with a copy to Industry representative on the Outside Expert Budget Committee.
- All dollar amounts are to be reported in whole dollars.
- All information should be input into the pre-approval worksheet whenever possible. Provide attachments to the pre-approval worksheet only when absolutely necessary.

5. MULTIPLE CASES

- If the request is related to multiple cases, identify the cases and provide Estimated Closing Dates (EDs) for the cases from the audit plans.
- Provide details of the work to be performed and the applicable compliance strategy.
- Provide a recommendation from the appropriate Technical Advisor.

6. SUBMISSION FOR PRE-APPROVAL

- Secure e-mail is REQUIRED for submission and approvals. Actual approval signatures on printed copies of the "LB&I OUTSIDE EXPERT PRE-APPROVAL WORKSHEET" are not required with routing through Secure e-mail, however, the approvers should indicate concurrence when forwarding the secure e-mail.
- See "General Instructions" above for additional information regarding required concurrences/approvals.

7. REQUESTS FOR ADDITIONAL FUNDING

- Use of the "ADDITIONAL FUNDING REQUEST – LB&I OUTSIDE EXPERT SERVICES" template is required for requests for additional funding. A copy of this template can be found on the Engineer website.

8. STATUS AND CLOSING REPORTS REQUIRED

- Industry Team Managers shall be required to prepare and submit status and closing reports on LB&I outside expert contracts.
- Quarterly status reports are required on all open contracts until the examination is closed ("STATUS REPORT - LB&I OUTSIDE EXPERT CONTRACT"). The status reports shall be submitted to the FSp Headquarters Outside Expert Program Analyst within 15 days after the end of each calendar quarter.
- Outside expert contract closing reports are required on all outside expert contracts ("CLOSING REPORT - LB&I OUTSIDE EXPERT CONTRACT "). The closing reports shall be submitted to the FSp Headquarters Outside Expert Program Analyst when the examination is closed.
- Copies of the templates for status and closing reports can be found on the Engineer website.

9. REQUEST TRACKING SYSTEM (RTS) REQUIREMENTS AND PROCEDURES

- The Engineer Team Manager responsible for providing Engineer support to the examination shall be in the RTS approval path and will be responsible for having the request input into RTS and having the RTS requisition number placed on the "LB&I OUTSIDE EXPERT PRE-APPROVAL WORKSHEET" .
- To generate a RTS requisition number, the request should be input into RTS when this pre-approval worksheet is prepared. Only pre-approved requests should be forwarded in RTS past the Engineer Territory Manager.
- The Engineer Territory Manager responsible for providing Engineer support to the examination will send a copy of the "LB&I OUTSIDE EXPERT PRE-APPROVAL WORKSHEET" to the FSp Headquarters Outside Expert Program Analyst upon his/her RTS approval of contracts where the total cost is under \$75,000.
- The Industry Team Manager shall be responsible for assisting the Contract Officers Technical Representative (COTR) in monitoring RTS to insure:
 - expenditures do not exceed authorized funding,
 - current "Delivery Dates" are maintained,
 - payments for services are promptly made,
 - excess funds are timely decommitted or deobligated, and
 - timely, formal close out of the contracts.

Caution:

RTS is not a Secure System. Attachments should be sanitized.

10. RTS Training and Instructions

- RTS training and instructions can be found on AWSS Procurement's website.
- Additional detailed guidance can be found on the Engineer Program website.

11. RTS Line Items and Contract Phases

- A separate RTS Line Item shall be input for each contract phase
- The RTS Line Items should correspond to the contract "Phases" as described in the statement-of-work

- Requests where separate RTS Line Items are not listed shall be rejected.

- Each RTS Line Item/Phase should include:

- Estimated total cost for the Line Item/Phase,

- Delivery Date (Period of Performance) for the Line Item/Phase, and

- Brief and clear description of services to be performed.

12. RTS Requisition Number For LB&I Outside Expert Requisitions

The RTS Requisition Number shall be in the following format: L (Division) - Y (Fiscal Year) - L301 (Spending Office) - E# (Branch) - F## ### (Sequence Number, System Generated).

- Division: Always use "L."
- Fiscal: Use the last number of the current Fiscal Year.

- Spending Office: Always use combination of "L3" and "01" (i.e. L301) for LB&I outside expert requisitions.
- Branch: E# where the # references the third digit of your old Territory Number (E4 = Engineer Territory 1, E5 = Engineer Territory 3, E6 = Engineer Territory 5, E7 = Engineer Territory 4)
- Sequence Number
 - Should always start with "F" for Outside Expert Requisitions. (Manual input required).
 - Do not use "F" for non-outside expert requisitions.
 - Note: The actual number after the "F" is "system generated" .

13. RTS Approval Path

The Engineer Team Manager and Engineer Territory Manager to be listed in the RTS Approval Path should be the Engineer TM and Engineer TTM with direct responsibility for providing Engineer support to the subject examination.

The following is the required RTS Approval Path:

- Requestor (Engineer Team Manager, COTR or Group Secretary),
- Approver (Engineer Team Manager responsible for providing Engineer support to the examination – If not the Requestor),
- Approver (Engineer Territory Manager responsible for providing Engineer support to the examination),
- Approver (LB&I Field Specialists Outside Expert Program Analyst),
- Approver (LB&I:FSp:HQ Budget Analyst).

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